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*Attorneys for Portside Growth and Opportunity Fund*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

\_\_\_\_\_  
PORTSIDE GROWTH AND OPPORTUNITY  
FUND,

Plaintiff,

v.

EARTH BIOFUELS, INC.

\_\_\_\_\_  
Defendants.

)  
)  
) **NOTICE OF MOTION FOR SUMMARY  
JUDGMENT**

) Case No. 07-cv-5582 (GBD)

) ECF Case  
)  
)  
)

PLEASE TAKE NOTICE that upon the accompanying Statement of Undisputed Facts pursuant to Rule 56.1 of the Local Civil Rules of this Court, the Declaration of Marc Baum dated June 29, 2007 with attached Exhibits “A” through “F” inclusive (the “Baum Declaration”), and the accompanying Memorandum of Law in support of this motion, and the pleadings and all prior proceedings herein, the undersigned, counsel for plaintiff Portside Growth and Opportunity Fund (“Portside”), will move this Court on a date to be determined by the Court, pursuant to Rule 56 of the Federal Rules of Civil Procedure, for an order (1) granting summary judgment against defendant Earth Biofuels, Inc., finding Earth Biofuels, Inc. liable to Portside for the amounts due to Portside pursuant to the Baum Declaration submitted

in support of plaintiff's motion for summary judgment; and (2) granting plaintiff such other and further relief as the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 6.1(b)(2) of the Local Civil Rules of this Court, papers in opposition to plaintiff's motion shall be served upon the undersigned counsel for plaintiff within ten business days after service of the moving papers.

DATED: June 29, 2007  
New York, New York

HENNIGAN, BENNETT & DORMAN LLP

By: /s/ A. Brent Truitt

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To: Earth Biofuels, Inc.  
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